

Kogansy



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: PacifiCorp Capital, Inc.

File: B-227822

Date: July 31, 1987

DIGEST

1. Specifications are not unduly restrictive of competition where the agency presents a reasonable explanation of why the specifications are necessary to meet its minimum needs and the protester fails to present any evidence that the restrictions are clearly unreasonable or that they do not represent the agency's minimum needs.
2. Where the agency shows that specifications for components of a computer system are reasonable and necessary, the fact that only one firm can provide the items does not violate competitive procurement requirements.

DECISION

PacifiCorp Capital, Inc. (PCI), protests the terms of request for proposals (RFP) No. BATF-87-18, issued by the Bureau of Alcohol, Tobacco and Firearms, Department of Treasury (Bureau). The protester alleges that certain specifications are unduly restrictive of competition.

We deny the protest.

The RFP, issued on May 6, 1987, requested proposals for an agency-wide computer system, designated as the Agency Consolidated Information System. The Bureau had earlier conducted a detailed information system study to determine its minimum automated information needs. The Bureau determined that the computer system must be compatible and interface with the Treasury Enforcement Communications System II (TECS II), a computer system developed by the Customs Service that operates in a system network architecture (SNA) environment. Further, the Bureau now operates on an International Business Machines (IBM) 4341 system and has spent considerable funds in converting applications from other systems (leased and owned) to run on the IBM 4341 system. The system to be acquired must therefore also be able to receive application programs from the IBM 4341 and

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use the same system software. Finally, the new system must be capable of processing approximately \$10 billion in excise and special occupational taxes that are currently collected by the Internal Revenue Service.

Two proposals were received by the Bureau by the closing date of June 5, 1987. PCI did not submit a proposal. PCI challenges four specifications as unduly restrictive. Specifically, PCI principally contends that the solicitation contains specifications for three items (components of the system) which can only be met by one supplier, IBM, and that these items therefore are improperly being acquired on a sole-source basis contrary to the requirements of competitive procurement. The fourth challenged specification concerns a requirement for a dual processor. From the record, it appears that while these IBM components are available to any firm in the market, PCI is unwilling or unable to offer these IBM components in a proposal to the agency.

When a protester challenges specifications as unduly restrictive of competition, the procuring agency bears the burden of presenting prima facie support for its position that the restrictions are necessary to meet its actual minimum needs. This requirement reflects the agency's obligation to create specifications that permit full and open competition to the extent consistent with the agency's actual needs. DSP Technology, Inc., B-220593, Jan. 28, 1986, 86-1 CPD ¶ 96. The determination of the government's minimum needs and the best method of accommodating those needs are primarily matters within the contracting agency's discretion. Bataco Industries, Inc., B-212847, Feb. 13, 1984, 84-1 CPD ¶ 179. Consequently, once the agency establishes support for the challenged specifications, the burden shifts to the protester to show that the specifications in dispute are clearly unreasonable. Sunbelt Industries, Inc., B-214414.2, Jan. 29, 1985, 85-1 CPD ¶ 113.

Further, specifications based upon a particular product are not improper in and of themselves, and an argument that a specification was "written around" design features of a competitor's product is not itself a valid basis for protest where the agency establishes that the specification is reasonably related to its minimum needs. Amray, Inc., B-208308, Jan. 17, 1983, 83-1 CPD ¶ 43. Nor is a specification improper merely because a potential bidder cannot meet its requirements. Moreover, where the agency shows that a specification is reasonable and necessary, the fact that only one firm can meet it does not violate competitive procurement requirements. Gerber Scientific Instrument Co., B-197265, Apr. 8, 1980, 80-1 CPD ¶ 263.

The RFP required that the successful contractor provide a communications controller configured with, among other things, 3 MB main storage, 256 full duplex links, and 14 scanners. The Bureau explains that the specifications for a "front-end" communications controller are based on requirements for what will become a large, multivendor national network. Because of the Bureau's present IBM architecture and the needs for the new system to be compatible with other major systems such as the TECS II, the basic architecture, configuration, and functions of the communications controller and other hardware are mandatory requirements and represents its minimum needs. The Bureau insists, and PCI disputes, that several communications controllers on the market can satisfy the specification requirements. The Bureau also accurately notes that PCI, in its protest, failed to identify the specific requirements of the specification for communications controllers that it considered to be restrictive (the specification contains numerous requirements).

In response to the agency report, the protester has not even attempted to show why the specifications do not represent the minimum needs of the agency. Rather, PCI's sole basis for complaint is that the specifications are per se unreasonable because only one firm can meet them. Specifically, in its comments, PCI lists nine subitems of the specifications for communications controllers that the Amdahl and other computer systems cannot meet. PCI has not attempted to refute the agency's position that compatibility of the system was an essential requirement that supported the need for the specifications at issue. Consequently, even assuming that only one firm can meet them, there is nothing in the record to show that the specifications are not reasonably related to the agency's minimum needs. Therefore, we deny this protest ground.

Since the record shows that PCI did not submit a proposal, did not intend to furnish IBM equipment, and did not, by its own admission, have other equipment that could meet the communications controller specifications, we need not consider its other protest grounds because these specifications were mandatory requirements which could not be waived and thus effectively preclude PCI from competing.

The protest is denied.

for *Seymour E. For*
Harry R. Van Cleve
General Counsel